

**2005 DRAFTING REQUEST**

**Bill**

Received: 12/10/2004

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Buildings/Safety - clean ind air**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Schneider@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Expand smoking prohibitions

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**Instructions:**

Prohibit smoking in bars, restaurants, and workplace environments

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 12/21/2004	jdyer 12/30/2004		_____			
/1			pgreensl 01/04/2005	_____	mbarman 01/04/2005	mbarman 01/05/2005	

FE Sent For:

<END>

→ Not  
Needed

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/?	rkite	1/12/04	7/4/04	1/4/04			
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FE Sent For:

<END>

**Kite, Robin**

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**From:** Schneider, Marlin  
**Sent:** Thursday, December 09, 2004 1:48 PM  
**To:** Kite, Robin  
**Subject:** Submitted: LRB 05-1120/1 Topic: Smoking in bars and restaurants?body=

Yes but I talked with Frank Boyle today and he said that there is a broader plan to ban smoking from workplace environments and not just bars and restaurants like I want to do. Can you draft my bill that way as well as a separate draft and make sure that both bars and restaurant are covered in my draft? Thanks. - Marlin

## 2005 BILL

1 AN ACT *to repeal* 101.123 (3) (d); *to amend* 101.123 (1) (f), 101.123 (1) (g),  
 2 101.123 (2) (b) and 101.123 (4) (a) 1.; and *to create* 101.123 (1) (im), 101.123  
 3 (2) (a) 11. and 101.123 (4) (a) 2m. of the statutes; **relating to:** smoking in  
 4 restaurants and taverns.

**Analysis by the Legislative Reference Bureau**

Current law prohibits smoking in enclosed, indoor areas within specified buildings and facilities, including certain restaurants with a capacity of more than 50 individuals. However, with certain exceptions, current law authorizes a person in charge of any building or facility where smoking is prohibited to designate smoking areas within the building or facility. *Current law also allows smoking in any tavern holding a "Class B" intoxicating liquor license or Class "B" fermented malt beverage license, issued by a municipality (liquor license).* *also* Current law allows smoking in any restaurant holding a liquor license, if the sale of alcohol beverages accounts for more than 50 percent of the restaurant's receipts.

This bill prohibits smoking in all indoor and outdoor areas of restaurants and taverns, regardless of capacity.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

5 SECTION 1. 101.123 (1) (f) of the statutes is amended to read:

~~NO~~ The bill also eliminates the authority of a person in charge of a restaurant, tavern, or office to designate a smoking area in any of those places.

**BILL**

1 101.123 (1) (f) "Restaurant" means an establishment defined in s. 254.61 (5)  
2 ~~with a seating capacity of more than 50 persons.~~

3 **SECTION 2.** 101.123 (1) (g) of the statutes is amended to read:

4 101.123 (1) (g) "Retail establishment" means any store or shop in which retail  
5 sales is the principal business conducted, ~~except a tavern operating under a "Class~~  
6 ~~B" intoxicating liquor license or Class "B" fermented malt beverages license, and~~  
7 ~~except bowling centers.~~

8 **SECTION 3.** 101.123 (1) (im) of the statutes is created to read:

9 101.123 (1) (im) "Tavern" means an establishment operating under a "Class B"  
10 intoxicating liquor license or Class "B" fermented malt beverages license.

11 **SECTION 4.** 101.123 (2) (a) 11. of the statutes is created to read:

12 101.123 (2) (a) 11. Taverns.

13 **SECTION 5.** 101.123 (2) (b) of the statutes is amended to read:

14 101.123 (2) (b) The prohibition in pars. (a) and (am) 1. applies only to enclosed,  
15 indoor areas, except that the prohibition in par. (a) 7. and 11. applies to all indoor and  
16 outdoor areas of restaurants and taverns.

17 **SECTION 6.** 101.123 (3) (d) of the statutes is repealed.

18 **SECTION 7.** 101.123 (4) (a) 1. of the statutes is amended to read:

19 101.123 (4) (a) 1. Except as provided in ~~subd.~~ subds. 2. and 2m., a person in  
20 charge or his or her agent may designate smoking areas in the places where smoking  
21 is regulated under sub. (2) (a) unless a fire marshal, law, ordinance or resolution  
22 prohibits smoking.

23 **SECTION 8.** 101.123 (4) (a) 2m. of the statutes is created to read:

✓  
insert  
2-16

insert  
2-17

# BILL

1 101.123 (4) (a) 2m. A person in charge or his or her agent may not designate  
2 any office or any indoor or outdoor area of a restaurant or a tavern as a smoking area. ✓

3 (END)

**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1198/lins.  
RNK:.....

**INSERT 2-16**

**SECTION 1.** 101.123 (3) (b) of the statutes is amended to read:

101.123 (3) (b) Rooms, other than offices, in which the main occupants are  
smokers, even if nonsmokers are periodically present in the ~~office or~~ room.

**History:** 1983 a. 211; 1985 a. 332 s. 253; 1987 a. 161 s. 13m; 1987 a. 403 s. 256; 1989 a. 97, 107, 251, 336; 1991 a. 28, 39, 130; 1993 a. 27, 313; 1995 a. 27 ss. 3661, 9126 (19); 1995 a. 77, 201, 404; 1999 a. 9, 72; 2001 a. 16; 2003 a. 268.

**INSERT 2-17**

**SECTION 2.** 101.123 (3) (f) of the statutes is repealed.



**Emery, Lynn**

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**From:** Schneider, Marlin  
**Sent:** Tuesday, January 04, 2005 3:56 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-1198/1 Topic: Expand smoking prohibitions

It has been requested by <Schneider, Marlin> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-1198/1 Topic: Expand smoking prohibitions